

NOMINATIONS—DEPARTMENT OF TRANSPORTATION

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

NOMINATIONS OF

CHARLES HARDIN, TO BE ASSISTANT SECRETARY OF TRANSPORTATION
FOR GOVERNMENTAL AFFAIRS; AND JIM J. MARQUEZ, TO BE GENERAL
COUNSEL, DEPARTMENT OF TRANSPORTATION

FEBRUARY 24, 1984

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NOMINATIONS OF—DEPARTMENT OF TRANSPORTATION

FRIDAY, FEBRUARY 24, 1984

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The committee met, pursuant to notice, at 9:15 a.m., in room 253, Russell Senate Office Building, Hon. Nancy Kassebaum presiding.

Staff members assigned to this hearing: Marguerite Ayers, professional staff member and Chuck Doyle, staff counsel; and Steve Palmer and Linda Morgan, minority staff counsels.

Senator PRESSLER [presiding]. In the absence of Senator Kassebaum, who will be here in a minute, I will take the liberty of opening this hearing, and will yield instantly to her when she comes, but I have gotten permission from the other Senator from Kansas to begin the hearing. If I am in trouble he can get me out of trouble.

At this time, I will yield to the senior Senator from Kansas.

STATEMENT OF HON. ROBERT DOLE, U.S. SENATOR FROM KANSAS

Senator DOLE. Senator Pressler, I appreciate this very much. I need to go on a trip in about 5 minutes. I would like to introduce to the committee, and Senator Kassebaum knows the nominee very well, as I do, Jim Marquez.

I will ask that my statement be made a part of the record, and as I say there, there is a degree of pleasure and regret that I am here this morning, because we are losing an outstanding attorney in Kansas. At the same time, however, the Department of Transportation is going to have a very qualified and able General Counsel, and I have a particular interest in the Department of Transportation, so I am glad the Secretary will receive a lot of good legal advice.

Jim will bring to the Department of Transportation a proven record of leadership and legal accomplishment. He has had broad experience in both State and Federal Government service. He is a Navy veteran, and a graduate of Washburn University Law School. Following his graduation, he served briefly as an attorney with the National Labor Relations Board before his appointment as an assistant U.S. district attorney.

When Robert Bennett was elected Governor of Kansas in 1974, he took Jim to Topeka with him as his legal adviser and pardon and extradition attorney. In September of 1977, the Governor ap-

pointed Jim to be secretary of corrections, a position with responsibility for 1,100 employees and a \$29 million budget. In his role as chief executive officer of the Kansas Department of Corrections, he had the responsibility for the orderly administration of five correctional institutions, one honor camp, two work release facilities, and the State's probation and parole offices.

It was on the basis of that and other areas of the State government that Senator Kassebaum and I nominated him to be U.S. district attorney for Kansas in 1981. Of course, one of the risks in appointing well-qualified individuals is that they do not stay for a long time. They move up the ladder, and that certainly is where this outstanding young man is headed.

So, I am just very pleased to be here to recommend to the committee that this nomination be approved. And here comes Senator Kassebaum now. So I will head for my other meeting.

I might say, Madam Chairman, that Senator Pressler agreed to let me introduce the nominee, and I am very pleased to do that, and I am sure you are pleased to be presiding over this particular nomination.

Senator KASSEBAUM [presiding]. I certainly am. And my deepest apologies. I did not know the time had been moved for this hearing from 9:30 to 9 o'clock.

Senator Dole: Thank you very much.

[The statement follows:]

STATEMENT OF HON. BOB DOLE, U.S. SENATOR FROM KANSAS

It is with a mixture of pleasure and regret that I come before you today to introduce my good friend Jim Marquez and speak on behalf of his nomination to be General Counsel at the Department of Transportation. It is with pleasure because Jim is an outstanding young Kansan who brings a distinguished record of accomplishment to his new position. It is with regret because the state of Kansas is losing an outstanding U.S. Attorney.

Jim will bring to the Department of Transportation a proven record of leadership and legal accomplishment. During his career Jim has had broad experience in both state and federal government service. He is a Navy veteran and a graduate of Washburn University Law School. Following his graduation, Jim served briefly as an attorney with the National Labor Relations Board before his appointment as an Assistant U.S. District Attorney.

When Robert Bennett was elected Governor of Kansas in 1974, he took Jim to Topeka with him as his legal advisor and pardon and extradition attorney. In September of 1977, the Governor appointed Jim to be Secretary of Corrections—a position with responsibility for 1,100 employees and a \$29 million budget. In his role as Chief Executive Officer of the Kansas Department of Corrections, he had responsibility for the orderly administration of five correctional institutions, one honor camp, two work release facilities and the state's probation and parole offices. The supervision and management of a state agency of the size and complexity of the Department of Corrections is a tremendous responsibility. The nature of that agency and public scrutiny of the operation of our penal system increases the magnitude of the responsibility. The competent manner in which Jim performed is significant evidence of his administrative capability.

It was on the basis of this record that Senator Kassebaum and I nominated Jim for the position of U.S. District Attorney for Kansas in 1981. One of the risk in appointing very well qualified individuals is that they won't be allowed to stay for a full term. Such is the case with Jim. He has done an outstanding job in Kansas and is now the nominee for General Counsel at DOT.

I have every confidence that he will again do an outstanding job. If he doesn't—I'm sure I'll be the first to hear about it.

It is with a great deal of home state pride that I recommend to the Committee Mr. Jim Marquez to serve as General Counsel of the Department of Transportation.

OPENING STATEMENT BY SENATOR KASSEBAUM

Senator KASSEBAUM. Thank you very much, Senator Dole. It certainly is a great pleasure, and we are very proud as Kansans to be here this morning to welcome you to this confirmation hearing as general counsel of the Department of Transportation, Jim. I am sure Senator Dole has commented that you have served Kansas so well in so many capacities, the last one being U.S. attorney, and our loss in Kansas will be the Department of Transportation's gain. It is a pleasure to welcome you.

Our purpose today is to examine the qualifications of two appointees to posts at the Department of Transportation. Jim Marquez has been nominated for the position of General Counsel and Charles Hardin for Assistant Secretary of Transportation for Governmental Affairs. I would like to welcome you both this morning and thank you for your patience during this confirmation process.

We will begin with Mr. Marquez this morning. I will introduce him, followed by a statement by Mr. Marquez. After that, I may have a few questions. We will follow the same procedure with Mr. Hardin.

I understand that Senator Mathias may appear to introduce Mr. Hardin. If not, we will include his statement in the record. In addition, we have statements on Mr. Hardin's behalf from Senators Andrews, Hatfield, and Eagleton for inclusion in the record.

Without further ado, it is my great pleasure to introduce Mr. Jim Marquez. Jim has been a resident of Kansas for the past 13 years or so. He was originally a native of New Mexico, but I suppose we can't hold that against him. Jim has had a long and varied career in the public sector legal area. His most recent experience has been that of the U.S. attorney for the district of Kansas. I have dealt with Jim on many issues in the past and have always found him openminded and quite fair.

I believe that Jim's extensive legal background makes him an excellent choice for the position of General Counsel at DOT. His analytical skills will be very useful in dealing with the wide array of issues that the Department encounters. I am very pleased with this appointment and at this point would invite you to proceed with your statement, Jim.

STATEMENT OF JIM J. MARQUEZ

Mr. MARQUEZ. Thank you very much, Senator Kassebaum.

First of all, I want to thank Senator Dole very much for that very kind introduction. I hope that Madam Chairman and Senator Pressler, I hope you will forgive me, but ever since I got to Washington, this weather has done something to my throat, and I cannot seem to breathe. I understand that this is something that does not go away, so I have a problem.

First of all, let me say that I do appreciate this opportunity to appear before you today in connection with my nomination as General Counsel. As you have indicated, this is my second time around in the confirmation process, having been nominated by the President 2½ years ago to serve as U.S. attorney for Kansas. I was very honored to serve the President then, and I am very flattered that he has given me another opportunity to serve him in his administration. I feel very happy about the trust that he has placed in me.

I need to thank several other individuals, though, who have had something to do with my being here today. First of all, I would like to express my thanks to the Secretary, Elizabeth Dole, for having recommended me; to you, of course, Senator Kassebaum, for having supported me in the past and now; to Senator Dole; and of course, maybe more importantly, to my wife, Helen, who is here with me today, and who I would like to introduce to the committee. Would you please stand up, dear?

Senator KASSEBAUM. Hello, and thank you very much.

Mr. MARQUEZ. I especially want to thank my wife because she agreed to interrupt a very successful career that she had in Kansas to move to Washington so that I could take on these new duties.

At the outset, I should say, and I have said it before, that I do not have any real experience in the field of transportation, and that my experience in Washington has been rather limited. However, I do think that my work both at the State and Federal levels over the last few years has given me the experience to bring a useful perspective to my new job, and I think it will serve me well.

During my tenure as U.S. attorney I had the opportunity to work with various Federal agencies, including the Department of Transportation. Prior to that time, I served in State government, and was very much involved in shaping the policy at the State level. My responsibilities included appearing before the legislative bodies.

Over the past month I have served as a special assistant to the Secretary, and have had an opportunity to learn about the many complex issues that face the Department and the programs it administers. I can say that I am very much impressed with the staff at the Department and, of course, very impressed with the Secretary herself, who is a very dynamic individual.

Because transportation has been a very fast-changing field in recent years, I look forward to meeting the challenges that new issues present. As I become familiar with these issues, I will work with the Secretary and the rest of the staff to resolve them. Issues such as the sunset of the Civil Aeronautics Board and the sale of Conrail, to name two, will be occupying much of my time. I look forward to performing those tasks, if I am confirmed, and I look forward to working with you and the rest of the Congress on these matters.

I thank you for giving me the opportunity to be here this morning. If you have any questions, I will be more than happy to answer them.

Senator KASSEBAUM. Thank you very much, Mr. Marquez.

I do have a couple of questions, perhaps more for information that I would like to get on the record with respect to these areas than expecting you to know in any real detail some of the answers, because, after all, just coming to the Department of Transportation and taking on a wide, wide range of issues needing your legal advice and counsel, I do not want to put you on the spot.

But I would like to ask you a bit about the current position of the Department on the sunset of the Civil Aeronautics Board. I am currently supporting the Department's position on that, in that a separate bill for the sunset is not necessary. If you have had time to analyze it, do you feel comfortable with the legal analysis behind

this decision, and do you feel that the DOT's plan for insulating the essential air service and international awards is sufficient?

Mr. MARQUEZ. Yes, I am comfortable with that analysis. As you may be aware, that legal opinion was formulated before I arrived, and was issued about 3 days after I came onboard as a special assistant to the Secretary. However, I have had an opportunity to review it, and I am confident that legislation is not needed.

I know that there are concerns about consumer protection functions, especially in the domestic aviation area. I am convinced, however, that the matter does not require legislation, because the exemption that was created in this particular area will by operation of law dissipate, and the FTC can then assume jurisdiction.

As regards the insulating of international route selections and essential air services, my review of the plan indicates to me that the process is at least as good as the present CAB process, if not better. The hearings concerning international route selections will all be on the record. They will proceed in accordance with the Administrative Procedure Act, and of course any final decision will be made by a career senior official. That decision, in turn, may be subject to review by the Assistant Secretary for policy or the Secretary.

However, what is important to keep in mind is that review action will be strictly limited to approval, or remand for reconsideration. The Secretary or the Assistant Secretary cannot change the decision, which is important in the insulation process.

As far as the essential air service is concerned, the process will be very much similar to that used for insulating the international route carrier selection. Even further, the Department's plan calls for those individuals who will be intimately involved in these cases to be separated functionally, limiting any communication or any interaction between the attorneys involved in order to avoid any undue influence on the decisionmaker. I think that is critical.

Senator KASSEBAUM. I certainly would share that observation. What form do you believe the computer reservation system, which, as perhaps you are aware, is very controversial, how should that be resolved? What will happen to this in the light of the sunset of the CAB, and what would be the best forum for the resolution of that, assuming there is no legislation? Are you familiar enough with that?

Mr. MARQUEZ. I am becoming familiar with the subject, and I think my initial inclination is that the matter can be resolved before the CAB where it is presently being considered. I know that the Department has not taken a position in that matter. However, I think the Department will support any position which will insure that competition is not stifled in the marketplace.

After sunset, based on the legal analysis prepared by the Department, I think that if the computer reservation system were to surface as a consumer issue, it could be addressed by the FTC pursuant to its section 5(a) authority. If it surfaces as an antitrust issue, it can be addressed by the Department of Justice pursuant to its present authority, or under the authority it will assume at the time of CAB sunset.

Senator KASSEBAUM. Regarding the FAA, it presently, of course, is very involved and busy with the airway systems plan in the im-

plementation of major changes there, but I have believed that the FAA could be more involved in supporting American aviation abroad, particularly as the FAA is so highly regarded and, I think, has to remain independent in its judgment, but can look to the use of our own aviation products, perhaps, in a way that does not entail it being intricately involved in any salesmanship way.

I have introduced legislation, which is S. 1693, that would encourage the FAA to be more active in this area, not going beyond any authority which it really does have already. I wonder what your opinion might be of that legislation, and if you think that indeed that bill would accomplish that purpose. I know that the Department has held some differing views on that, and perhaps again you have not had a chance to thoroughly look at it.

Mr. MARQUEZ. Well, you took the words right out of my mouth, Senator. I have not had an opportunity yet to read your bill. I can tell you that I will go back and take a look at the bill and will be prepared to comment on it at a time that you would like if that would be all right?

Senator KASSEBAUM. All right. Thank you.

I know that Senator Pressler shares my interest in rail legislation and the effect of the Staggers Act on particularly small shippers. I want to say that I very much appreciate also, Senator Pressler, your starting this hearing. I would like to ask a question in this respect, and perhaps you have some others to follow on with that you would like to ask.

For the last year, I have heard from a number of small shippers and grain elevator operators that they are not able to compete fairly with the present system that we have for contract disclosure. I have introduced legislation, again, S. 2137, which would make full disclosure a part of our public policy. It is the belief of the small grain shippers that this will help them remain competitive.

Whether indeed that will be the case or not, I am not sure, but in reviewing the situation, we had a hearing in Kansas on some of the concerns of the shippers and the railroad interests. I do not know that I think it would hurt either party involved. I wonder if you have had time to review Staggers, and any general views of the implementation of the Staggers Act, and in any particular way the full disclosure of contracts.

Mr. MARQUEZ. No; I have not had an opportunity to develop any expertise in the Staggers Act. However, as I have begun to study the subject, it is my understanding that the Staggers Act, in general, has worked relatively well, that in essence it has created some new competitive forces in the market, and, that, as an indication of its success, railroads as a whole are in much better shape now than they were several years ago.

As to contract disclosure, I think the Staggers Act does raise or puts into focus a very thorny legal question. Now, I cannot answer the entire question for you today, but I think it does raise the issue of how do you balance privity of contract between a shipper and a railroad with another shipper's ability to object to any contracts that he might think are discriminatory or affect his well-being.

I think that is what the issue really is. I cannot address it in detail today, and again, in the future, if you ask me to comment on that bill, I will be more than happy to give you my thoughts on it.

Senator KASSEBAUM. Thank you very much.

Senator Pressler, do you have any questions?

Senator PRESSLER. I have just a couple.

First, I want to congratulate the nominee and say that I started the hearing only at the direction of the senior Senator from Kansas.

I was going to ask a couple of followup questions. They have been pretty well covered, and I have seen some of the questions that have been submitted regarding the common carrier responsibility, which we pretty much abandoned with all this deregulation of air, truck, railroad, and bus traffic. I know that times are changing, but the general counsel's office can have enormous impact on the direction, as some of the decisions that are made in the Department. I say that as a former member of a general counsel's office years ago.

I am wondering how you see the common carrier responsibility, especially railroad, truck, and air, and bus also, in terms of transportation, with the so-called deregulation bills, which in my view are really reregulation, but there are sections of the country, and not just rural areas—every State has them—where the deregulation has been almost like a cancer eating away at the transportation structure. I think in 2 or 3 years we are going to feel the full impact of it. What is your philosophy on this whole thing? And what sorts of legal opinions are you going to be issuing?

Mr. MARQUEZ. At the outset, I have to say that I do support deregulation. I know concerns have been raised, especially in smaller communities, that there may have been a diminution of services provided to those communities. I do not believe that I am in a position today, Senator, to address the question as directly as you might like.

However, as I become familiar with the issues, I will certainly keep your thoughts in mind as we address them in the Department. The Secretary has testified before that she is aware of the concerns that you raise, and I would feel much more comfortable in the future, once I have had opportunity to study the issues, to address that question much more thoroughly.

Senator PRESSLER. Well, for example, I was going to ask you if the DOT can properly administer the essential air service program if it is ultimately transferred from the CAB, which you have touched on somewhat. That would be a great problem to us in our State, because we have lost so much transportation in the area. Do you believe that that can properly be done?

Mr. MARQUEZ. I think that because of the way that it is structured in our plan at the Department, the plan will work. Now, if you are asking me whether the Department will continue the essential air service program, beyond the expiration date established under current law I cannot answer that question, because I have not really discussed it with the Secretary or been involved with that specific issue. With regard to the procedures for the administration of essential air service, I am confident the DOT plan will work.

Senator PRESSLER. And you support it?

Mr. MARQUEZ. The Department of Transportation plan? Yes, I do.

Senator PRESSLER. Now, you say you are a supporter of deregulation. Does that mean you will be making rulings to vigorously encourage the Government from not scheduling routes, from not getting involved where there are abandonments and so forth?

Mr. MARQUEZ. I do not think I can go so far as to say that I would support deregulation in its totality. As the issues are addressed there has to be a balancing of what is in the best interest of the public. That is the best answer that I can give you at the moment. When I say I support deregulation, I mean that I support it in principle. I am not now in a position to say that my opinions in general will always be 100 percent supportive of deregulation.

Senator PRESSLER. Now, the Staggers Act has not worked well in South Dakota. Indeed, we are constantly fighting one railroad abandonment after another. In fact, we just finished winning one. Out of 120 cases, the ICC ruled that the Fort Pierre to Rapid City line could not be abandoned. So there is some hope over there at last in the ICC.

Are you aware of the damage that the Staggers Act has done in small towns and rural areas?

Mr. MARQUEZ. I do not exactly know what you mean by damage. I am still learning about rail deregulation, so I may not be able to answer that question very adequately for you.

Senator PRESSLER. What shall we do for transportation in some of these rural areas? How do you envisage it developing?

Mr. MARQUEZ. Again, I must apologize, Senator. I have yet to become so familiar with all of the issues involved in rail deregulation to be in a position to answer that question for you.

Senator PRESSLER. All right. If you could for the committee, would you submit in writing your vision of transportation, not only rail, but truck, air, and bus, and we will take as an example the State of South Dakota, how you envisage in the next or 3 years—certainly you will be serving, I hope, that long—how you would envisage best addressing the transportation problems there? I would much appreciate it if you would do that.

Mr. MARQUEZ. I would be more than happy to do that, Senator.

Senator PRESSLER. Good. Thank you.

[The following information was subsequently received for the record:]

My vision of the future must necessarily be rooted in experience, and as I have noted earlier, my direct experience in transportation is limited. However, based on my review of the record so far, I believe that the deregulatory reforms of recent years are working well. I also think that as time goes on and both the transportation industries and their users become better accustomed to the reforms, transportation services in South Dakota and other states will continue to improve.

There are important differences across the transportation modes which were recognized by Congress in structuring deregulatory reforms separately for rail, truck, bus and aviation sectors. Rail transportation is a good example of an industry for which total deregulation was not appropriate because there are types of freight movements in areas served only by a single railroad, where the shipper may be unduly "captive" to the railroad. The deregulatory changes under the Staggers Rail Act of 1980 are, as I understand it, working satisfactorily. The Department of Agriculture found, for example, that farmers, including grain farmers from the upper and central Great Plains, have adequate transportation, mainly because there is alternative service from trucks, as well as favorable new unit train and single-car rates.

I believe that deregulation in the trucking industry has also been a success. Numerous studies done by and for DOT and the ICC, and independent studies as well, show the overwhelming majority of shippers—including those in small and rural

communities—have service as good or better than before deregulation. I understand that the Department's witness for your December 1983 hearing on truck deregulation described his informal survey of small community shippers in South Dakota. Those results were also similar—that trucking service is at least as good as before the passage of the 1980 Motor Carrier Act.

Since deregulation of intercity bus service in 1982, there has been some publicity over proposed bus service abandonments. However, many critics have failed to take note of the beneficial effects of liberal entry as a factor in mitigating abandonments. You may already be aware of a recent ICC study which found that of the approximately 1300 points abandoned since the Act, over 600 are part of larger urban areas retaining bus service within 10 miles or so. For those remaining rural points, service remains available, on average, 16 to 17 miles away. For the latter, extremely small populations and ridership are involved.

Our staff checked with the South Dakota Public Service Commission about bus service, and was told that no major changes have occurred. DOT staff did identify three South Dakota points losing service. Two of these represented 1980 populations of 570 and 388. Our staff could not ascertain a population estimate for the third locality. A new bus company has recently applied to the ICC to serve two of these points, and the third had previously received "drop-off" service only, meaning, one could get there by bus, but not connect with any further bus service. These reports indicate that few people have been seriously inconvenienced by bus deregulation.

Finally, I believe the record with regard to airline deregulation is pretty good. Service to airports of all sizes has increased on average. There are cities, including some in South Dakota, which have experienced service decreases. But while service has decreased to such towns as Aberdeen, Mitchell, Watertown, Sioux Falls, and Yankton, it has increased to Pierre, and increased substantially to Brookings, Huron, and Rapid City. Because of deregulation, service levels will vary in accordance with economic conditions and passenger demand. Service at many cities will continue to increase as the economy continues to rebound, but it is also true that, at many others, service may never return to pre-deregulation levels.

In general, I believe the best way to address small community transportation service is to maintain an environment for stable economic growth. One means of achieving this goal is to permit competitive industries to operate free from unnecessary government regulation, so that existing and new carriers will be able to respond to local needs and changing conditions. As I noted earlier in my testimony, complete deregulation may not always serve the public interest. Government policy should balance the freedom given to transportation providers to respond to marketplace conditions, with the needs of the users of that transportation service. I believe we have seen that balance in the transportation reforms adopted by Congress in recent years. It will be my job as General Counsel to assist the Secretary in implementing these reforms fairly and in accordance with the policy goals and Congressional intent of the statutes within our purview.

Senator KASSEBAUM. I have just one final question, one, because it was in the news this week, and that regards the sale of Conrail. What legal issues remain that you have had a chance to review before the sale of Conrail, and what are your plans as to analyzing these problems that are left to be resolved?

Mr. MARQUEZ. That is a very difficult question to answer. The sale of Conrail has been a major issue for the Department during my short tenure there. It is another one of those topics that I have not been able to grasp in its totality in such a short period of time. However, I can say that the legal issues that will arise in the sale of Conrail will be very much dependent on what kind of agreement is reached between the Department of Transportation and a prospective purchaser.

In addition, all of those legal issues that arise with the sale of any major corporation will surface, such as tax issues, and securities matters, just to name two. Those are the types of legal issues that I foresee. If, in addition, legislation is needed to implement the sale, my office will be intimately involved in that process.

Senator KASSEBAUM. Do you see the sale materializing in the near future?

Mr. MARQUEZ. As you know, Senator, there have been at least three or four entities who have expressed an interest in Conrail. We are hoping, of course, that Conrail can be sold without major delays. Mr. Burnley, the Deputy Secretary, and the Secretary are staying on top of this particular situation, and it is our hope that we can sell Conrail in the very near future. I hope that this will be within the next year or so, maybe less.

Senator KASSEBAUM. Well, I think from just covering aviation basically and railroads, your plate will be full as General Counsel for the Department of Transportation, and that does not begin to touch a number of the issues that you will have to work with. I am very confident that these matters are in good hands. Perhaps I am a bit prejudiced, but I have seen the work that you have done in Kansas, and I am just very proud to have you serving where you will be serving at the Department of Transportation. We wish you well.

Mr. MARQUEZ. Thank you, Senator. I appreciate your confidence. I hope I will merit that confidence.

Senator KASSEBAUM. Thank you very much. I would guess you will be leaving, then, will you not? We will proceed ahead with Mr. Hardin's nomination.

Mr. MARQUEZ. Yes, I will have to be leaving but Mr. Hardin is here.

[The statement, biographical sketch, and answers to questions of the committee follow:]

STATEMENT OF JIM J. MARQUEZ

Madam Chairman: My name is Jim Marquez, and I appreciate the opportunity to appear before this Committee today in connection with my nomination to serve as General Counsel of the Transportation Department.

This is my second Senate confirmation hearing. Two and one-half years ago, President Reagan nominated me as U.S. Attorney for the District of Kansas, and I was deeply honored to serve in that position as a part of his Administration. He has now asked me to serve in a different capacity here in Washington, and once again I appreciate very deeply the trust he has placed in me.

I must also express my special gratitude to the four individuals who have made this new opportunity possible: to Secretary Dole, who recommended me for this new position; to the junior and senior Senators from Kansas, who have given me their support and wise counsel; and perhaps most importantly, to my wife Helen, who is here with me this morning, and who agreed to move from Lawrence to Washington and interrupt her career so that I could accept this new job.

Madam Chairman, as you know, my training and background are not in the transportation field, and my experience in Washington has been limited. But I do believe that I can bring some important qualities to this new position, and that my experience and abilities will enable me to perform well as General Counsel of DOT. I do have considerable background, at both the State and Federal levels, in government management and in providing legal advice and representation.

During my tenure as U.S. Attorney, I worked closely with a number of Federal program agencies, including DOT, in a wide variety of litigation matters. Prior to that, as Pardon Attorney and legal advisory to the Governor, and then Cabinet Secretary for Corrections, I was an active participant in helping to shape policy for the State of Kansas, and consulted regularly with members of the legislative branch.

Over the past month, as a Special Assistant to Secretary Dole, I have had the chance to learn much about the many programs and issues in which DOT is involved, and to work with senior-level officials and attorneys in the Department. I can report that I have been favorably impressed with the caliber and dedication of DOT staff, particularly those in the General Counsel's Office. I can also report that DOT's most impressive feature is Secretary Dole, and I especially look forward to providing advice and counsel to her as she directs the various activities of the Department.

Transportation has been a fast-changing field in recent years and the Reagan Administration has undertaken an ambitious program to rebuild our infrastructure, eliminate unnecessary spending and regulations, encourage economic deregulation, recover costs through user fees, and assure maximum levels of safety in all forms of travel. In the months ahead, we face a number of complex and important issues, including CAB sunset, selling Conrail to the private sector, issuing automobile occupant protection rules, revitalizing our merchant marine, and upgrading truck safety enforcement.

I share the Secretary's commitment to carry out the policies of this Administration, and, if confirmed, look forward to joining Chip Hardin and other DOT officials in working with your Committee and other committees of the Congress in addressing these matters.

That concludes my prepared statement. I would be happy to respond to any questions you might have.

Biographical Sketch of Jim Jacob Marquez

Address: 1528 Eldorado; Lawrence, Kansas 66044.

Date and place of birth: March 10, 1941; Los Lunas, New Mexico.

Marital status: Married in 1964 to Mary Helen Baca.

Names and ages of children: None.

Education: Belen High School, New Mexico—1955–1959; University of New Mexico, Albuquerque, New Mexico—1960–1965—BA in Psychology—1965; Washburn School of Law, Topeka, Kansas—1970–1972—Juris Doctor—1972.

Employment record: 8/81–1/84: United States Attorney, Department of Justice, Topeka, Kansas; 1/79–8/81: Lawyer, Self employed, Topeka, Kansas; 9/77–1/79: Secretary of Corrections, State of Kansas, Topeka, Kansas; 1/75–8/77: Pardon and Extradition Attorney, State of Kansas, Topeka, Kansas; 5/73–1/75: Assistant District Attorney, Johnson County, Olathe, Kansas; 1/73–4/73: Staff Attorney, National Labor Relations Board, Kansas City, Kansas; 7/71–12/72: Law Clerk, Crow & Skoog, Topeka, Kansas; 7/70–7/71: Installment Loan Officer, Merchants National Bank, Topeka, Kansas; 1/67–3/70: Assistant Credit Manager, Sears, Roebuck & Co., Santa Fe, New Mexico and Topeka, Kansas; 6/66–12/66: Insurance Salesman, Al Sanchez Insurance Agency, Santa Fe, New Mexico; 4/66–6/66: Aviation Officer Candidate, United States Navy, NAS Pensacola; 1/65–4/66: Insurance Salesman, Al Gates Insurance Company, Albuquerque, New Mexico.

Government experience: 8/81–1/84: United States Attorney, Department of Justice, Topeka, Kansas; 2/79–8/81: Special Assistant Attorney General, Office of State Attorney General Topeka, Kansas; 9/77–1/79: Secretary of Corrections, State of Kansas, Topeka, Kansas; 4/78–12/78: Member, Government Advisory Committee of Problems of Youth, Topeka, Kansas; 1/75–8/77: Pardon and Extradition Attorney, State of Kansas, Topeka, Kansas; 5/73–1/75: Assistant District Attorney, Johnson County, Olathe, Kansas; 1/73–4/73: Staff Attorney, National Labor Relations Board, Kansas City, Kansas; 4/66–6/66: Aviation Officer Candidate, United States Navy, NAS Pensacola.

Memberships: American Bar Association, Kansas Bar Association, Topeka Bar Association, Board Member, Big Brother/Big Sister of Topeka, Inc. (former) Optimist Club of Topeka, U.S. Judicial Nominating Commission for Kansas, 1979, appointed by Senator Nancy Kassebaum (former), Board Member, United Way of Topeka (former), Kansas Chapter, National Committee for Prevention of Child Abuse.

Political affiliations and activities: Kansas Republican Party—contribution, Johnson County Republican Committee Member, Precinct Committeeman, 1974, Republican National Committee—contribution, Bennett for Governor Committee—contribution (Kansas Governor's Race), 1978.

Honors and Awards: None of any great significance except for special commendation from Attorney General William French Smith for defense of "Titan Missile Cases" while I served as U.S. Attorney for Kansas.

Published writings: None.

QUESTIONS OF THE MINORITY AND THE ANSWERS THERETO

QUALIFICATIONS TO BE GENERAL COUNSEL

Question. Your background indicates little experience in the field of transportation. What do you believe makes you qualified to be nominee for the position of

General Counsel of the Department of Transportation? What do you feel you can bring to that Office?

Answer. The General Counsel is the chief legal officer of the Department of Transportation whose function is to advise the Secretary concerning the myriad of legal issues that arise relative to the Department's programs. I believe eleven years of broad legal experience, both in the private sector and in government, will greatly aid the Secretary in carrying out her legal responsibilities and implementing her agenda for the Department.

My service as the United States Attorney for the District of Kansas, during which time I supervised a large legal staff, provided a unique opportunity to handle a broad range of legal issues. Because the General Counsel and all DOT lawyers must work closely with the Department of Justice, my experience as U.S. Attorney should prove extremely valuable in continuing and improving the good cooperation between our two Departments. Also, in addition to my experience as a trial lawyer, I have an extensive background in management, government rulemaking and formulating government policy, which are important and useful skills for the General Counsel of a major Federal agency.

Since January, I have worked as a Special Assistant to Secretary Dole and, as such, have been exposed to a broad range of transportation law and policy issues. I am confident that, if confirmed, I can be an effective General Counsel and assist the Secretary in resolving legal questions that confront the Department.

POLICY ROLE OF GENERAL COUNSEL

Question. In the past, the Office of General Counsel has played an integral role in policy and legislative efforts at the Department of Transportation. If confirmed as General Counsel, how would you perceive your role in these efforts? Are there legislative and policy efforts which you would like to initiate or continue?

Answer. I believe that one of my principal roles will be to analyze and articulate legal issues the Department of Transportation faces in particular situations to ensure that the Secretary may consider the full range of options available. Because many "policy" issues include fundamental legal issues, I believe that any General Counsel must be a strong player in policy development.

The Office of General Counsel coordinates all of the legislation originated by the Department, and all comments on various bills and amendments pending before Congress. I look forward to working with Mr. Hardin, who is also scheduled to appear before you this morning, on major legislative proposals facing the Congress and the Transportation Department. As I see the job, the legislative and policy priorities of the General Counsel will be those of the Secretary. Among the important issues to be addressed this year are: the smooth transition of the Civil Aeronautics Board functions to the Department; heavy truck taxes; maritime regulatory reform; establishing the National Traffic Safety Administration; uniformity of state truck regulation; funding for DOT programs in our fiscal year 1985 budget; and other initiatives that are important to the Secretary.

DEREGULATION OF TRANSPORTATION SERVICE

Question. As you know, Congress over the last several years has passed regulatory reform legislation affecting the airline, motor carrier and rail modes. As the transportation sector adjusts to a less regulated environment, how do you view the role of the General Counsel's office in assessing the impact of this legislation on the industries and users, and also the implementation of reforms? Are there initiatives in this area, legislative or otherwise, in which you would like to see the General Counsel involved?

Answer. The General Counsel's office and the Office of the Assistant Secretary for Policy and International Affairs work closely together in assessing the impact of deregulation on the affected industries. The General Counsel is responsible for filing views with Federal economic regulatory agencies, for reviewing all reports to Congress on the progress of deregulation and for coordinating appearances and testimony of witnesses for Congressional oversight hearings.

To further the goal of removing outdated and unnecessary regulations that hinder our transportation industries, under my leadership the General Counsel's office will continue to work closely with other government agencies—particularly the CAB, as its residual functions are transferred to DOT; the ICC, as it implements motor carrier deregulation; and the FMC, as a new regulatory regime is adopted by Congress for ocean shipping in U.S. foreign commerce. The General Counsel will also be directly involved within DOT in advocating administrative efforts to enhance deregulation and promote competition in the transportation sector.

SAFETY TASK FORCE

Question. Secretary Dole recently announced the creation of a task force within the Department of Transportation to conduct an intensive safety review of all the areas of transportation. In what ways do you see the General Counsel's Office involving itself in this review?

Answer. As General Counsel, I will advise the Secretary concerning any legal questions that may arise from the work of the task force. Given the priority that the Secretary has assigned to safety issues, I plan to monitor closely the progress of this review. As I understand the job of the task force, it will examine a variety of safety issues relating to all modes of transportation. A senior attorney from the Office of General Counsel has been assigned to serve on the task force. This Office will therefore be fully aware of the work of the task force and have direct input into its activities. The Office of General Counsel will work with the component agencies and will review any report or recommendations which the task force may adopt.

CONRAIL SALE

Question. The sale of Conrail in the private sector is perhaps one of the most important tasks facing the Department of Transportation. If confirmed as General Counsel, how would you view your role in this effort?

Answer. Secretary Dole and Deputy Secretary Jim Burnley both recognize the importance of returning Conrail to the private sector. The General Counsel's office has been providing and will continue to furnish direct assistance to the Secretary and the Deputy Secretary in analyzing the many legal issues involved in the sale. The General Counsel's office will also continue to work closely with the Chief Counsel and other offices of the Federal Railroad Administration (FRA).

If I am confirmed, I expect this coordination and assistance role to continue. We are entering a critical period in the sale negotiations and I can assure you that I will work to make sure that the Secretary is provided with thorough and timely legal advice.

TRANSFER OF CAB FUNCTIONS TO DOT

Question. The Department has submitted to the Congress its plan for the transfer of responsibilities from the Civil Aeronautics Board. What role do you foresee for the General Counsel in implementing this plan? If the Congress chooses to enact legislation on the CAB sunset later this year, would you reconsider the decision to transfer antitrust immunity to the Justice Department? Should the Department of Transportation, in your view, be given sole responsibility for consumer protection provisions?

Answer. I believe that the role of the General Counsel is to ensure that the procedures adopted by the Department in assuming the CAB's residual functions following sunset are fair and comport with all applicable statutory requirements, including the Administrative Procedure Act. During the transition period, it will be particularly important that the General Counsel monitor the conduct of the newly-assumed functions to ensure that the intent of Congress, as reflected in the Airline Deregulation Act of 1978 and other applicable laws, is properly carried out.

I believe that the assignment of CAB functions under the current statutory scheme—whereby the Department of Justice will administer airline antitrust provisions and the Federal Trade Commission will oversee domestic consumer protection provisions—is entirely appropriate. The Department of Justice is the logical choice given its responsibility for enforcing this country's antitrust laws. Should Congress in the future reorganize these functions, and assign additional responsibilities to DOT, I would of course ensure that any additional functions are assumed in accordance with prescribed procedures.

PREEMPTION OF STATE AND LOCAL RULES ON HAZARDOUS MATERIALS TRANSPORTATION

Question. Hazardous materials safety regulation is an area which continues to receive a great deal of attention within the transportation community and among the states and localities. Of particular interest is the relationship between Federal regulation and state and local law in this area. What is your view toward Federal preemption of state and local hazardous materials regulation? As General Counsel, how would you propose to work with the states and localities in ensuring the safe movement of hazardous materials?

Answer. It is my understanding that the processes currently employed by the Department strike an appropriate balance among Federal, State, local, and commercial interests. The Department recently forwarded to Congress a legislative proposal to

reauthorize the hazardous materials program for fiscal year 1985. While the Department has no plans for new legislation in this area, I understand that the current program will continue to be funded and actively supported.

It is my view that Federal preemption of state and local law dealing with the transportation of hazardous materials is necessary when the state and local laws unduly burden interest commerce or are inconsistent with the Federal regulatory scheme. Although I believe that Federal preemption is necessary, I also believe that it is very important that the Department work closely with state and local agencies to coordinate all efforts in this area and to avoid any unnecessary Federal intrusion into state and local activities. In reviewing any Departmental proposal regarding hazardous materials transportation, I will ensure that such a balance is maintained.

RELATIONSHIP OF GENERAL COUNSEL WITH MODAL ADMINISTRATIONS

Question. The structure of the Department of Transportation is highly decentralized with each modal administration having an Office of Chief Counsel, as well as the General Counsel in the Office of the Secretary. How do you view this relationship and what steps would you take, if confirmed, to improve upon the working relationships of these offices?

Answer. As I noted at the outset, the General Counsel is the chief legal officer of DOT, legal adviser to the Secretary, and the final authority within the Department on questions of law and professional legal supervision. This includes, in a cooperative relationship, coordination and review of the legal work of all legal offices within the Department, including the drafting of legislation, drafting of regulations, defense of lawsuits against the Department, and representation of the Department in proceedings before other Federal agencies. Cooperation, coordination, and review between the Office of the General Counsel and the various Chief Counsels' offices is critical for the development of sound positions and policies.

It is my understanding that the relationship between the General Counsel and the Chief Counsels' Offices is a good one. While I do not at this time have specific changes to advocate, I do look forward to meeting regularly with the Chief Counsels and working closely with their offices in coordinating the Department's legal and policy positions. I wish to emphasize that the General Counsel's office does not duplicate the work done in the modal administrations, but instead serves to assure consistency of work on specific modal issues with overall policies and procedures.

PRIORITIES OF THE GENERAL COUNSEL'S OFFICE

Question. If confirmed as General Counsel, are there activities in which you would like to continue or initiate the Office's involvement? What priorities would you establish for the Office of General Counsel and recommend to the Secretary for the Department of Transportation?

Answer. I believe the role of the General Counsel in the regulatory process is particularly crucial. After all, it is through its regulations that an agency constructs the framework for its everyday operations. If confirmed as General Counsel, I hope to maintain and strengthen, where possible, the General Counsel's participation in coordinating the views of all the Secretarial offices and modal Administrations as well as performing our own review of each of the significant regulations developed in the Department. I also intend to focus on the ongoing implementation within DOT of legislation intended to improve regulatory requirements such as the Regulatory Flexibility and Paperwork Reduction Acts.

As far as subject areas are concerned, my office will place the highest priority on providing legal analysis and support on issues that are of primary concern to the Secretary; on working closely with the Congress and our authorizing and appropriations committees; on assuring a well-managed, highly-professional legal office; and on meeting all our statutory, judicial and regulatory obligations.

Senator KASSEBAUM. Mr. Hardin, it is a pleasure to welcome you here as the nominee for Assistant Secretary of Transportation for Governmental Affairs.

Mr. HARDIN. Thank you very much. It is a pleasure to be here.

Senator KASSEBAUM. You are an old hat somewhat at this, but as you well know, this is a very important job. Do you have an opening statement that you care to make?

STATEMENT OF CHARLES HARDIN

Mr. HARDIN. Yes, I do.

Madam Chairman and members of the committee, I am most honored to be here before you this morning, and am grateful to Secretary Dole for the confidence she has placed in me.

I have been involved in transportation issues for the past 14 years, beginning in State government, and then with the Appropriations Committees of the House and Senate. As I have worked on these issues, there has grown within me a deep respect for both the legislative process and the people who make it work.

I expect to draw heavily on my Hill experience and on the relationships I have been privileged to develop here, since I will have no more important responsibility than to make certain that the legislative perspective, your views, are fully considered in the decisionmaking process of the Department of Transportation.

Further, knowing so well what is expected here and the heavy demands placed on Members of Congress and their staffs in fulfilling their obligations, I am committed to responding fully and promptly to your requirements. I recognize that it is only by working in close cooperation, with an appreciation of one another's goals and needs, and with an abiding respect for both this great institution and the executive branch, that we will be successful in resolving the issues which face us.

As important as this interaction is, the Assistant Secretary for Governmental Affairs is also charged with the crucial responsibility of insuring that State and local governments as well as the various public interest and consumer groups are heard and answered at the Department of Transportation. With a consensus at the Federal level on the need to return more responsibilities to the State and local levels, and the need to work through private sector initiatives where that can be of assistance, it is clear that special emphasis must be placed on these relationships.

Madam Chairman, I would be pleased to respond to any questions you may have.

Senator KASSEBAUM. Thank you. I would just like to say that there are opening statements of introduction from Senators Mathias, Andrews, Hatfield, and Eagleton which will be made a part of the record.

Mr. HARDIN. Thank you very much.

Senator KASSEBAUM. They are very fine statements, let me say. I think those of us who have worked with you here know that indeed you know very well the workings of the Hill and the importance of good relationships between the Department of Transportation and the committees here involved in the legislation.

In your previous incarnation as a very important member of the staff of the Appropriations Committee, you were critical of various aspects of the NAS plan, particularly the flight service station procedures as outlined for various closings and the superstations that were to be created. Do you anticipate any problems in fully supporting the NAS plan before Congress? Do you believe indeed it still has flaws? And if so, should these be addressed?

Mr. HARDIN. I fully support the NAS plan. It is very crucial to the safety, the capacity, and the productivity of our airspace

system, and I recognize the economic savings that would result through automation and facility consolidations, as well as through the use of new telecommunications. As you well know, it has often been compared to NASA's Apollo program in complexity, size, and cost. These cost savings from the NAS plan are estimated at \$25 billion through the year 2000, with another \$10 billion in lower costs to be achieved through reduced delays in aviation operations. The full extent of these savings will be possible only if the facility consolidations occur and system efficiencies can be realized.

I would look forward to working with Members of Congress in making sure that their concerns can be worked out in implementing the NAS plan, which is so very important to the safety and capacity of the system in the future.

Senator KASSEBAUM. I would share the hope that there will be a great deal of effort in supplying information and keeping us and the public informed. I think this is not, obviously, your responsibility, but I do think that the public is uncertain, particularly in the area of the flight service stations, and the evolution of the NAS plan.

This, I suppose, really falls to FAA, but I think it should be of concern to all of us if we hope for successful implementation of that plan.

You are very familiar with the concerns, particularly the flight service station concerns that have been raised and the legislation that was introduced, as a matter of fact, to halt any further closing of flight service stations until we did have some adequate plans presented to us for the future development of that particular phase.

Mr. HARDIN. Your point is well taken. In dealing with Members of Congress, their staffs, and State and local interests, I have observed that as more information is made available on particular closings or consolidations, it has been most helpful in resolving concerns over what is going to take place in the future.

Senator KASSEBAUM. Do you think concerns have been resolved?

Mr. HARDIN. No, I think on a case-by-case basis such detailed information proven to be it has very helpful, and I would hope to continue that effort to make certain that people are aware of the benefits of the plan, the timing of the plan, and to resolve some of the concerns that have been expressed. It will be a long process.

Senator KASSEBAUM. The area of highway safety has received considerable attention recently. What plans do you have to support DOT's efforts in this area?

Mr. HARDIN. Well, one of the most crucial issues before the Department now is the pending rulemaking on passive restraints. I would expect that once a decision is made, we would hope it would come this spring, that there would be considerable interest in Congress in working through that issue. The Secretary has no higher priority than safety. I fully support that point of view, and would look toward working to meet the needs and concerns of the Congress and this committee in particular.

Senator KASSEBAUM. Thank you very much, Mr. Hardin. We are looking forward to working with you. As I say, you are very familiar

with the importance of good liaison, and very informed views between the Department and the Hill. We wish you well.

Mr. HARDIN. Thank you very much. It has been a pleasure to be here.

[The biographical sketch, answers to questions of the committee, and material submitted for the record follow:]

BIOGRAPHICAL SKETCH OF CHARLES GEORGE HARDIN (Nickname "Chip")

Address: 1249 Youngs Farm Road, Annapolis, Maryland 21403.

Date and place of birth: April 10, 1947 St. Louis, Missouri.

Marital status: Married to Kathleen Fisher Hardin.

Names and ages of children: Lindsay Suzanne Hardin—Age 3; Katherine Renee Hardin—Age 18.

Education: University of Wisconsin, Dates attended: 3/69–6/70, Degree received: MA 8/70; Florida State University, Dates attended: 8/65–6/69, Degree received: BA 6/69.

Employment record:

(a) Special Assistant, Office of the Secretary, U.S. Department of Transportation, Washington, D.C., 9/83–Present.

(b) Majority Clerk, Subcommittee on Transportation, U.S. Senate Committee on Appropriations, Washington, D.C., 1/81–9/83.

(c) Professional Staff, Committee on Appropriations, U.S. House of Representatives, Washington, D.C., 3/73–12/80.

(d) Administrative Budget and Management Analyst, Bureau of Planning and Budget, Wisconsin Department of Administration, Madison, Wisconsin, 8/70–2/73.

8. Government experience: List any experience in, or association with, federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions. In addition to the 13 years of government experience indicated above, audited analytical systems under U.S. contract for the American Embassy in Paris, France (6/64–8/64) and served as a personnel clerk at the Passport Office, Department of State in Washington 6/65–8/65).

Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations. Member of the following scholastic honorary societies: Phi Beta Kappa, Phi Kappa Phi, Pi Sigma Alpha.

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last ten years. Member of the Republican Party.

Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement. Full graduate fellowship at the University of Wisconsin and scholastic honorary societies shown under item 9.

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written. None, except as contributed to in connection with my employment.

QUESTIONS OF THE MINORITY AND THE ANSWERS THERETO

Question 1. During your years serving with various congressional committees you have been on the receiving end of a great deal of assistance from Federal agencies. If confirmed, your primary job will be to provide such assistance to Members of Congress. What philosophy would you bring to the job of Assistant Secretary for Governmental Affairs?

Answer. Recognizing the heavy demands placed on Members of Congress and their staffs in fulfilling their obligations, I am committed to responding fully and promptly to Congressional needs. It is the responsibility of the Assistant Secretary for Governmental Affairs not only to convey Administration positions to the Congress, but also to ensure that Congressional perspectives are thoroughly considered in the decision-making process. In fulfilling this key responsibility, I would strive for full, open and frequent communication with Members and staff. While the parties to a given issue cannot be expected to always agree, it is my belief that open communications can help narrow such differences and serve to further the making of good public policy.

Question 2. As transportation legislation moves through Congress, Members of the House and Senate often need to speak directly with the Secretary. What steps

would you take to improve the level of access of Members to the Secretary of Transportation?

Answer. The Secretary has strongly expressed to me her intention to be promptly accessible to each and every Member of Congress. If the Secretary is out of town or otherwise unable to immediately answer a phone call, a senior department official should be designated to make an interim reply, provide whatever immediate assistance possible, and begin preparing whatever additional information the Secretary may require when she returns the call. Correspondence and requests for meetings should be handled in a similar vein. It is the Secretary's policy that the Assistant Secretary for Governmental Affairs be made aware of all such contacts when they occur to ensure that no request is left to languish and that follow-up information is thoroughly and promptly conveyed.

Question 3. At the Department's request, legislation has been introduced to create the National Highway Safety Administration, consolidating the activities of the Bureau of Motor Carrier Safety and the National Highway Traffic Safety Administration (NHTSA). What are the benefits of such a proposal?

Answer. The primary purpose of the proposed National Traffic Safety Administration is to improve the performance of the Department's safety programs. The legislation establishes a comprehensive traffic safety program integrating the management of current highway safety and truck safety program into a single administration.

There are several important benefits of the proposal. First, the consolidation will foster more coordinated regulatory, enforcement and grant delivery policies. Second, it will allow more effective constituent relations, providing a single point of focus for the safety concerns of the Congress, consumer, labor, business and State and local government. Third, it will increase the visibility of the motor carrier safety program by providing representation at the Associate Deputy Administrator level and by merging two organizations which have the same primary mission of improving highway safety and reducing traffic accidents. Finally, the proposal will allow more effective oversight of the programs by the Secretary, Congress and the public.

Question 4. What do you envision to be your role, if confirmed as Assistant Secretary, in the transfer of functions from the Civil Aeronautics Board? If Congress chooses to enact legislation related to the sunset of the Board, should your office be the primary recipient of the consumer protection activities?

Answer. The Department has submitted to Congress a detailed description of how the Department proposes to administer the residual functions of the Civil Aeronautics Board. A new Office of Consumer Affairs would be established in the Governmental Affairs Office. The office would: (a) assist consumers in their dealings with the air transportation industry and assist State and local organizations in handling airline consumer complaints; (b) ensure that consumer complaints are handled efficiently and through a single contact in the Department; (c) coordinate Departmental consumer programs and policies with the White House, State and local officials and consumer interest groups; (d) provide timely information to consumer/citizen organizations on regulatory reform, legislative initiatives and program changes; and (e) provide a mechanism for disseminating information to consumer and State and local officials on successful consumer programs.

The Office of Governmental Affairs currently handles consumer affairs in other transportation matters in just such a manner.

Question 5. The sale of Conrail in the private sector is perhaps one of the most important tasks facing the Department of Transportation. If confirmed as Assistant Secretary, how would you view your role in this effort?

Answer. The sale of Conrail, as the Committee is aware, is one of the highest priorities in the the Administration. As Assistant Secretary, I would keep the Congress advised of the status of Conrail and would assist the Secretary in presenting whatever implementing legislation, if any, that may become necessary.

Question 6. What steps will you take, if confirmed, to increase bipartisan participation of the development of national transportation priorities?

Answer. From my experience as a staff member on the Hill, I feel that I am particularly aware of the critical importance to consult both sides of the aisle in the development of national transportation priorities. The Hill has been an excellent teacher of the need for this close working relationship. I plan to work with all relevant Committees and Members, both minority and majority, on a continuing basis.

Question 7. Do you anticipate the need for any reorganization of activities in the Office of Assistant Secretary for Governmental Affairs? What are your ideas of how to improve the effectiveness of the Department's intergovernmental activities? What are your goals for the technology sharing and planning assistance activities that are performed by this office?

Answer. I see no need for any office reorganization; however, I would note that in the DOT/CAB Sunset plan, which has been transmitted to Congress, the existing Consumer Affairs activity in the Office of Governmental Affairs would be absorbed in a separate Office of Consumer Affairs reporting to the Assistant Secretary.

The Office of Intergovernmental Affairs act as an ombudsman and advocate for state and local governmental interests within the Department. That office has and will continue to have active involvement in such issues as: (a) encouraging states to raise their legal drinking age to 21; (b) encouraging state activity in the formulation of stronger highway safety legislation; (c) gathering thoughts from major interest groups and states on important issues such as the recent heavy use tax proposals; and (d) explaining the Safety Administration and Uniform Truck Tax legislation. One means of improving the effectiveness of the Office would be to provide further outreach by participating in more state and local/interest group activities.

The Overall goal of the technology sharing and planning assistance activities of the office is to provide effective technical backup to state and local government decisionmaking, particularly by elected and appointed officials. In this regard, I would: (a) assemble and disseminate technical materials dealing with particular problem areas faced by these officials, and to help focus the Department's research on these issues; (b) make the best use of the Department's technical assistance resources by offering its products to the full range of state and local audiences for which they are relevant; (c) highlight innovative approaches to system installation, operations, and maintenance including alternative state/local funding approaches, cooperative ventures with the private sector, and proven ways to improve productivity; (d) work with innovative state/local governments in sharing advances they have perfected with other jurisdictions; and (e) work closely with Congress, both in seeking your input on technical assistance needs and information sources, and in making you aware of material which can assist you and your constituents.

QUESTION OF SENATOR PRESSLER AND THE ANSWER THERETO

Question. What shall we do for transportation in some of these rural areas? How do you envisage it developing? What is your vision of truck, air, bus and rail transportation? How do you envisage best addressing the transportation problems in South Dakota in the next two or three years?

Answer. I am aware that South Dakota, like many other rural areas of the country, has experienced some problems with economic deregulation of our transportation industries. However, it is my belief that the reforms enacted by the Congress over the last six or seven years have served the users of the transportation system well, when viewed from a national perspective, and will increasingly prove beneficial to such states as South Dakota.

From both a philosophical and economic viewpoint, deregulation of transportation is a concept I support. I believe the bulk of regulatory decisions made by Washington over the past 40 years—everything from the setting of rates to the establishment of routes—is better left to the open marketplace.

Deregulation of different modes of transportation has been enacted in varying degrees dependent, in part, on the nature of the affected industry. It is Congress' recognition of these differences that has led, I believe, to a regulatory structure that works fairly well. Strict federal regulation imposed from Washington is less likely, in my opinion, to serve the overall transportation needs of such states as South Dakota.

With respect to the trucking industry, I believe the Motor Carrier Act of 1980 has been a success. Both the studies done by DOT and the oversight hearings completed by the Commerce Committee and the House Public Works Committee show that shippers and consumers have service as good or better than before deregulation. In particular, the Department has taken great care to monitor and review the effect of deregulation on small communities and the consistent results of our surveys show that trucking service in small and rural areas is at least as good as before passage of the MCA.

In the area of rail transportation, where Congress deemed that total deregulation would not be appropriate because of several unique characteristics of the industry, the deregulatory changes of the Staggers Act are working very well. Again, government studies show service to shippers in the upper mid-west has been adequate.

Deregulation of the intercity bus industry is the most recent regulatory reform action taken by the Congress and concerns about bus service abandonments have been prevalent, particularly in the less populated areas of the country. Because of these concerns, the Congress and the Department of Transportation have been sen-

sitive to the potential loss of service in small communities. As Mr. Marquez indicates in his response to this question, a check of intercity bus service in South Dakota shows that few people have been adversely affected by bus deregulation.

Perhaps the issue that has received the most attention and publicity is airline deregulation and its effect on the more sparsely populated areas of the country. While there have been some cities in these parts of the country which have seen air service decrease, other towns in the same areas have experienced service increases. This result was not unexpected in a deregulatory environment. The Congress recognized that service levels throughout the country would be dependent on passenger demand as well as general economic conditions.

I do recognize, however, that as we transition into full implementation of regulatory reform, particular service decreases which are properly viewed as temporary "dislocations" from a national perspective are often regarded locally as serious problems. In such instances, it offers little comfort to point out that most other areas are greatly benefitting from deregulation.

STATEMENT OF HON. CHARLES MCC. MATHIAS, JR., U.S. SENATOR FROM MARYLAND

Mr. Chairman, I am pleased to be here this morning to introduce a fellow Marylander to the Committee. Charles G. (Chip) Hardin, President Reagan's nominee to be Assistant Secretary for Governmental Affairs within the Department of Transportation, represents our state well.

In addition to living in Maryland, which shows good judgment in itself, Mr. Hardin brings to this appointment many strong credentials. He has a wealth of experience in transportation, both on the state level and in the Congress. His most recent position, as Staff Director of the Senate Appropriation's Subcommittee on Transportation, has exposed him to the whole range of transportation issues and will stand him in good stead in his new position.

I first met Chip Hardin at a meeting I arranged between Senator Andrews and the Mayor of Baltimore, William Donald Schaefer, on a seemingly unresolvable problem involving \$100 million in highway funds for Baltimore. When it comes to finding creative solutions no one can top Mayor Schaefer, but in this particular instance the Mayor was stumped. Senator Andrews, with the fine staff work of Mr. Hardin, provided the solution.

A few years back, when the potholes on the Woodrow Wilson Bridge were so large that anyone travelling over it could get a clear view of the Potomac River below, Chip Hardin came to the rescue. He met with the three jurisdictions responsible for the bridge—the District of Columbia, Maryland and Virginia—to try to develop a consensus on how to get the bridge repaired. And, shortly thereafter, the bridge was fixed.

Senator Andrews, in his statement, talks about Mr. Hardin's effectiveness in the Congress, so I need not dwell on that. His experience here and his demonstrated ability to work with local and state officials while protecting the federal interest, have prepared Mr. Hardin for the challenges that lie ahead of him in carrying out the duties that the President has entrusted to him. I am happy the President selected him for this position and am confident he will handle it skillfully.

I appreciate the opportunity to be here this morning and to be a part of your Committee's consideration of the nomination of this outstanding Marylander.

STATEMENT OF HON. MARK ANDREWS, U.S. SENATOR FROM NORTH DAKOTA

Mr. Chairman, and members of the Committee. It is a great pleasure to add my personal endorsement of Charles G. (Chip) Hardin, as the Commerce, Science, and Transportation Committee considers his nomination for the position of Assistant Secretary for Governmental Affairs in the Department of Transportation.

I have known Chip since his service on the staff of the House Appropriations Committee. His counsel was appreciated by all members, minority and majority alike. It was for this reason that Chairman Hatfield and I requested that Chip join the Senate Appropriations staff in 1981 as Clerk of the Transportation Subcommittee.

The Committee on Appropriations prides itself on the high caliber of its professional staff. Chip took this responsibility seriously, and together we embarked on three productive budget cycles at a time when domestic spending, in particular transportation spending, underwent careful review. Each of those years the transportation budget proposed difficult choices for the Subcommittee, yet Chip's advice was always thoughtful and constructive.

In the new post, I'm sure Chip will effectively combine his appreciation of the transportation interests of Congress with his responsibility to advise the Secretary on the most prudent course of action. I know he will consider all sides of the issues with which the Department of Transportation is faced. I intend to call on him often with my questions and suggestions and I recommend his nomination for your favorable and speedy consideration.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., February 21, 1984.

HON. ROBERT PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In my opinion, the President and Secretary Dole have made a wise choice in the nomination of Charles G. (Chip) Hardin for the position of Assistant Secretary for Governmental Affairs of the Department of Transportation.

It is certainly gratifying that a former staff member of the Senate Committee on Appropriations has been selected for this vital post. Chip Hardin joined the Committee in 1981 at a time when major budget decisions were proposed. It was necessary that a careful review of existing programs and funding be conducted in order to gain maximum benefit from each dollar of domestic spending. Chip made a valuable contribution to that effort.

Transportation is of critical interest to each Member of Congress. Chip, in his years as staff member in both House and Senate, was aware of that interest and served the Members well. I know he will continue to consider Congress' concerns in his new post while providing the Secretary with wise counsel.

On behalf of the other Members of the Committee, I encourage your favorable action on his nomination and wish him well in his new endeavor.

Sincerely,

MARK O. HATFIELD,
Chairman.

STATEMENT OF HON. THOMAS F. EAGLETON, U.S. SENATOR FROM MISSOURI

Mr. Chairman, I want to express my whole-hearted support for the nomination of Charles Hardin to be Assistant Secretary of Transportation for Government Affairs.

As a member of the Senate Transportation Appropriations Subcommittee, it has been my pleasure to work closely with Mr. Hardin on a number of issues and I have always found him to be highly professional and cooperative in every way, without the slightest tinge of partisan difference. Even on issues where I differed strenuously with the chairman of the committee—Senator Mark Andrews—I could always count on a straightforward and helpful working relationship with Mr. Hardin.

I have no doubt he will prove to be a great asset for the Department of Transportation and I look forward to continuing a fine working relationship with him.

Senator KASSEBAUM. Thank you all. We are adjourned.

[Whereupon, at 9:50 a.m., the committee was adjourned, to reconvene upon the call of the Chair.]